Per G.S.Singhvi, C.J.

This appeal by Deputy Commissioner and Executive Officer, Sri Mallikarjuna Swamy Devasthanam, Komuravelli, Cherial Mandal, Warangal District is directed against order dated February 17, 2006 passed by learned Single Judge in WVMP.No.187 of 2006 and WPMP.No.1129 of 2006 in Writ Petition No.974 of 2006, whereby she confirmed ad interim order dated 17-1-2006 passed in favour of the writ petitioner (respondent herein).

In the writ petition filed by him which is pending before the learned Single Judge, the respondent has prayed for quashing auction notification dated January 13, 2006 issued by the appellant cancelling the auction conducted on 14-12-2005 with an invitation to all the Devasthanam Archakas to participate in the fresh auction for right to sell Laddus, Pulohora Prasadas in the Devasthanam premises. The case set up by the respondent is that in the auction held on 14-12-2005, he had given highest bid of Rs.14,14,000/- and started selling Laddus etc. in the premises of the Devasthanam, but non-petitioner (appellant herein) arbitrarily cancelled the auction and issued notice for fresh auction.

While issuing notice of the writ petition, the learned Single Judge directed that further proceedings pursuant to auction notification may go on subject to the orders of the Court and the petitioner shall be entitled to carry on business of selling Laddus pursuant to earlier auction.

On receipt of notice, the appellant filed an application for vacating the ad interim order which was registered as WVMP.No.187 of 2006.

After hearing the parties, learned Single Judge confirmed the ad interim order and posted the main case for hearing on March 27, 2006 by observing that the action of the non-petitioner to conduct fresh auction without rejecting the petitioner's bid was not justified.

We have heard learned counsel for the parties and perused the record.

Ordinarily, the Division Bench would be loath to entertain an appeal against the interlocutory order, but keeping in view the peculiar facts of this case, namely, that while granting interim relief to the respondent, learned Single Judge was not appraised of the conditions of auction and provision contained in the Andhra

Pradesh Charitable and Hindu Religious Institutions and Endowments Immovable Properties and other rights (other than Agricultural Lands) Lease and Licences Rules, 2003 (for short 'the Rules') and particularly Rule 12 (1) and (3) thereof , we are convinced that the appeal should not only be entertained but also should be allowed.

A reading of the conditions which formed part of the notice issued by the appellant in December 2005 for auctioning the right to sell Laddus etc., which have been placed before the Court by learned counsel for the appellant shows that in terms of paragraph 2 thereof, the highest bid was subject to the approval of Commissioner, Endowments Department. Rule 12(1) of the Rules provides that the result of auction should be reported to the competent authority who may either confirm, or for the reasons to be recorded in writing, reject the lease or licence. Clause (3) of Rule 12 of the Rules makes it clear that no lease or licence shall be valid unless and until it is approved by the competent authority. It is thus clear that the highest bid can be translated into a contract only after the same is approved by the competent authority.

If the respondent's case is examined in the light of the conditions of auction and Rule 12 (1) and (3), it is not possible to accept his plea that by virtue of the highest bid given by him he had acquired a vested right to be awarded contract for sale of Laddus etc. In the writ petition, it has neither been averred nor any evidence has been produced before the Court to show that the highest bid given by the writ petitioner (respondent herein) had been approved by the competent authority i.e., Commissioner, Endowments Department. In the counter affidavit filed on behalf of the present appellant, it has been specifically averred that highest bid of the writ petitioner has not been approved by Commissioner of Endowments.

It appears that attention of the learned Single Judge was not drawn to the relevant condition of auction and Rule 12 of the Rules and, therefore, she felt persuaded to confirm the interim order. In our view, in the face of the mandate of Rule 12(3) read with paragraph 2 of the conditions of auction, the highest bid given by the writ petitioner cannot be acted upon because the same had not been approved by the competent authority.

In **K.N.Guruswamy v. The State of Mysore**, the Supreme Court while dealing with the right of the highest bidder to be awarded contract for sale of liquor held that such bidder does not acquire any legal right to be awarded contract and it is open for the

competent authority to refuse to accept the highest bid.

In view of the above, we hold that the learned Single Judge gravely erred by confirming the interim order under which the respondent was allowed to sell Laddus in the premises of the Devasthanam.

There is another reason for vacating the order of the learned Single Judge. In the counter affidavit of the writ petition filed by the present appellant, it was specifically averred that as a result of fresh auction highest bid of Rs.18,42,000/- has been received. This means that the latest bid is about Rs.4,00,000/- higher than the one given by the writ petitioner. If the respondent is not allowed to act upon the said bid, the interest of the Devasthanam will be adversely affected.

For the reasons mentioned above, the appeal is allowed. Order dated 17-2-2006 passed by the learned Single Judge is set aside and ad interim order dated 17-1-2006 is vacated.

G.S.SINGHVI, C.J.

March 6, 2006.

G.BHAVANI PRASAD, J.

GRR/ARS